

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0620P**

**Use Tax**

**Calendar Years 1996, 1997, 1998**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed on an audit completed on September 22, 1999.

Taxpayer failed to self assess use tax on clearly taxable items and had no use tax accrual system in place for calendar year 1996. Taxpayer correctly filed use tax returns in 1997 and 1998.

1. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer's audit report revealed that no use tax accrual system was in place for calendar year 1996. The taxpayer failed to self assess as required by statute and was aware that tax was due which can be demonstrated by its own filing for 1997 and 1998.

Taxpayer merely states that it has satisfied its sales and use tax liabilities in full since the audit

and its record of timely paying its tax liabilities to Indiana is outstanding. For these reasons a penalty assessment is not warranted and a request for its abatement is submitted.

Taxpayer, however, is aware that use tax is due for parts and materials consumed on Indiana contract machinery. It correctly made payments for 1997 and 1998. Taxpayer itemizes the costs by State for the year and should have remitted the tax due in 1996. Failure to do so constitutes negligence.

### **FINDING**

Taxpayer's protest is denied.